

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 21381 of 2002

Between:

Gunjapalli Nagaseshudu, S/o. G.P.Ayyanna,
c/o. 8/386,Court road, Ananthapur,Ananthapur District.

..... PETITIONER

AND

- 1 The Depot Manager, APSRTC., Dhone Depot, Dhone, Kurnool Dt.
- 2 The APSRTC, rep. By its Regional Manager, Kurnool, Kurnool District.
- 3 The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Ananthapur, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to the award made in I.D.No.6/2000, dated 20-6-2002 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur which was published vide G.O.Rt.No.1568, dated 1.7.2002 as highly illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently set aside the impugned proceedings No.02/95[110]/99-DHN, dated 1.11.1999 on the file off the 1st respondent wherein the petitioner was removed from service and order for reinstatement of the petitioner into service with all attendant benefits including continuity of service and back wages.

Counsel for the Petitioner: MR.G.V.SHIVAJI

Counsel for the Respondents 1 & 2 : Sri P.Vinayaka Swamy, Standing counsel for APSRTC.

Counsel for the Respondent No.3: G.P. for Labour.

The Court made the following :

ORDER :

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Heard Sri T.Shivaji, learned counsel appearing for the petitioner and Sri P.Vinayaka Swamy, learned standing counsel appearing on behalf of the respondents 1 and 2.

The petitioner, who is working as Conductor, filed this Writ Petition, *inter alia*, seeking a Writ of Certiorari challenging the award in I.D. No. 6 of 2000 dated 20.06.2002 on the file of the third respondent, as illegal.

The case of the petitioner is that in a check conducted on 25.06.1999 when he was conducting a bus on the route from Dhone to Kurnool, certain irregularities were found and ultimately charges were framed to the following effect.

1. That you have collected Rs.16/- each totally Rs.32/- from two lady passengers who boarded the bus at Dhone and bound for Kurnool, ex-stages 1 to 5 but reissued the ticket nos. 073/125959 and 960 of Rs.10/- deno. – E-2, which were already issued and accounted in S.R. No.3284634 against stage No.5 Kurnool to Dhone in 15.00 hrs. down trip to them, which constitutes misconduct under Regulation 28 (xxiii) of APSRTC Employees (Conduct) Regulations, 1963.
2. That you have failed to acknowledge the charge memo no.0057057 dt. 25.06.1999 at the spot when asked you by the TTIs, which constitutes misconduct under Regulation 28 (viii) of APSRTC Employees (Conduct) Regulation, 1963.
3. That you have closed the tray numbers of all denominations in SR without issuing correct tickets to the lady passengers referred in charge no.1, which constitutes misconduct under Regulation 28 (xxxii) of APSRTC Employees (conduct) Regulations, 1963.
4. That you have violated the rule “issue, close and start” which constitutes misconduct under Regulation

On that, an enquiry was conducted after providing an opportunity whereupon, services of the petitioner were terminated holding that he is guilty of all the aforesaid charges. After exhausting remedies available, the petitioner raised a dispute and the same was taken up as I.D. No. 6 of 2000 before the third respondent. During the course of enquiry before the third respondent, the domestic enquiry was found to be valid. No evidence was let in on both sides before the Labour Court. The Labour Court after considering all the aspects, upheld the entire action having regard to the findings as arrived at.

The learned counsel appearing for the petitioner submits that the Labour Court had not taken into consideration past conduct of petitioner while going into the correctness of the punishment

The learned standing counsel appearing on behalf of the respondents sought to repel the same.

Considering the submissions made and on perusal of the material, the only question that falls for consideration is as to whether the action on the part of the respondents 1 and 2 in terminating services of the petitioner, is valid ?

There is no dispute to the fact of check made by the authorities while the petitioner was conducting a bus and finding of irregularities, on which the aforesaid charges are framed. A reading of the aforesaid charges, *prima facie*, constitutes allegations of re-issuance of tickets apart from other allegations. Findings of the domestic enquiry were found to be valid by the third respondent and no evidence has been let in on either side before the third respondent. In view of the same, it can not be said that there is any error in regard to the findings as arrived at by the third respondent. Based upon them and without

leading any evidence on behalf of the petitioner, it is not open to go into the correctness of such findings. Further, this court can not go into the findings of fact as arrived at by the Tribunal. By taking into consideration the facts and circumstances of the case vis-à-vis the charges as made against the petitioner and the findings given thereon, I do not find any illegality in awarding the impugned punishment, though the Labour Court has not taken into consideration the past conduct of the petitioner while considering the gravity of the punishment imposed. In the circumstances, I do not find any merits in the Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

24.01.2005

DRK

Copy to:

- 1 The Depot Manager, APSRTC., Dhone Depot, Dhone, Kurnool Dt.
- 2 The Regional Manager, APSRTC., Kurnool, Kurnool District.
- 3 The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Ananthapur, Ananthapur District.

4 Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

5 Two CD copies.

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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